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In re Application of
VAN SAARLOOS, Paul Phillip
US Application No.: 09/719,726
PCT Application No.: PCT/AU99/00479
Int. Filing Date: 17 June 1999
Priority Date: 17 June 1998
Attorney's File Reference: A33827 PCT USA
For: Z AXIS TRACKER

:
: DECISION ON
:
: PETITION
:
: UNDER
: 37 CFR 1.47(b)

This decision is in response to the submission by The Lions Eye Institute of Western Australia Incorporated (LEI) entitled "RENEWED PETITION UNDER 37 CFR 1.47(b)", filed 29 January 2003, which requests acceptance of the application without the signature of sole inventor Paul Phillip Van Saarloos (Van Saarloos).

BACKGROUND

On 14 June 2002, LEI filed a renewed petition under 37 CFR 1.47(b) accompanied by, inter alia, a statement of facts, signed by agent Gregory Joseph Noonan (Noonan) and dated 07 June 2002 and a copy of a letter from Noonan to Mark Dwyer (Dwyer), attorney for Van Saarloos, dated 21 May 2002 and marked "Exhibit 1". The letter states, in part, that it is accompanied by a combined declaration and power of attorney with an attached specification, claims, and drawings for US application number 09/719,726. However, paragraph 3 of the Noonan statement of facts asserts that he reviewed, inter alia, exhibit 1 and came to the conclusion that he was uncertain as to whether the US application papers forwarded to Van Saarloos were accompanied a copy of the specification, claims, and drawings. Further, paragraph 7 of the Noonan statement asserts that on 21 May 2002, Noonan wrote to Dwyer requesting Van Saarloos' signature on an assignment and combined declaration and power of attorney. Paragraph 7 makes no mention of whether or not the assignment and combined declaration and power of attorney were accompanied by the requisite specification, claims, and drawings.

On 24 December 2002, this Office mailed a decision dismissing LEI's renewed petition under 37 CFR 1.47(b) filed 14 June 2002. The decision stated that it was not clear that Van Saarloos understood exactly what he was being asked to sign if the papers

forwarded to him for signature did not include a copy of the specification, claims, and drawings.

On 29 January 2003, LEI filed the present "RENEWED PETITION UNDER 37 CFR 1.47(b)" which was accompanied by, inter alia, a supplemental statement of facts signed by Noonan and dated 20 January 2003. The supplemental statement of facts states, in paragraph 2, that the combination declaration and power of attorney referenced in paragraph 7 of the Noonan statement of 07 June 2002 and in the letter dated 21 May 2002 was accompanied by an attached specification, claims, and drawings as is evident from the letter.

DISCUSSION

The supplemental statement of Noonan dated 20 January 2003 suffices to show that a complete set of application papers including a copy of the specification, claims, and drawings was sent to Van Saarloos' attorney with the letter dated 21 May 2002.

CONCLUSION

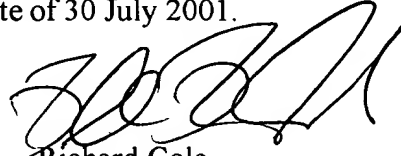
The petition under 37 CFR 1.47(b) is **GRANTED**.

As provided in 37 CFR 1.47(c), a notice of the filing of this application will be forwarded to the non-signing inventor at his last known address of record.

A notice of the filing of the application under 37 CFR 1.47(c) will be published in the Official Gazette.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of this application, including according this application a 35 USC 371 (c) date of 30 July 2001.

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